{deleted text} shows text that was in SB0197 but was deleted in SB0197S01.

inserted text shows text that was not in SB0197 but was inserted into SB0197S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

**Senator Karen Mayne** proposes the following substitute bill:

#### **CONSANGUINITY AMENDMENTS**

2020 GENERAL SESSION STATE OF UTAH

Chief Sponsor: Karen Mayne House Sponsor:

#### **LONG TITLE**

#### **General Description:**

This bill adds <del>{to the Utah Code }</del> definitions of certain relationships <u>to the Utah</u> Criminal Code.

#### **Highlighted Provisions:**

This bill:

- defines consanguinity and affinity, as used in the Utah <u>Criminal</u> Code <u>and the</u>
   <u>Cohabitant Abuse Act</u>; and
- makes technical corrections.

#### **Money Appropriated in this Bill:**

None

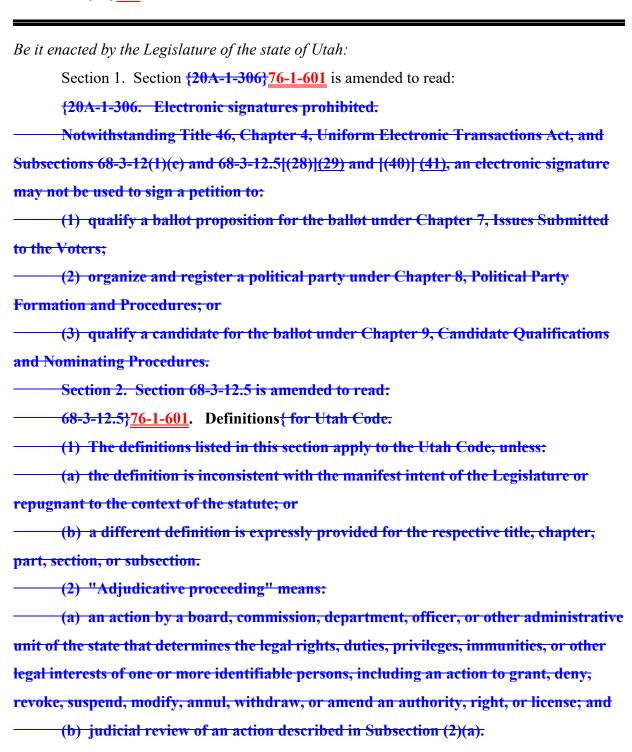
#### **Other Special Clauses:**

None

#### **Utah Code Sections Affected:**

#### AMENDS:

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\frac{20A-1-306}{76-1-601}, as last amended by Laws of Utah 2019, Chapter \frac{24}{211} \frac{68-3-12.5}{78B-7-102}, as last amended by Laws of Utah \frac{2019}{2018}, Chapter \frac{24}{255}
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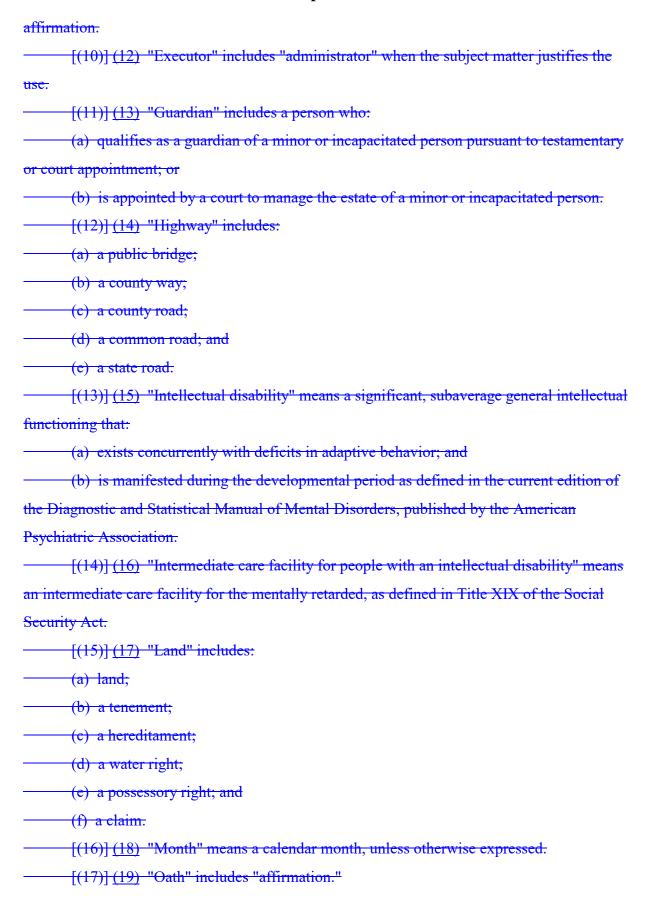


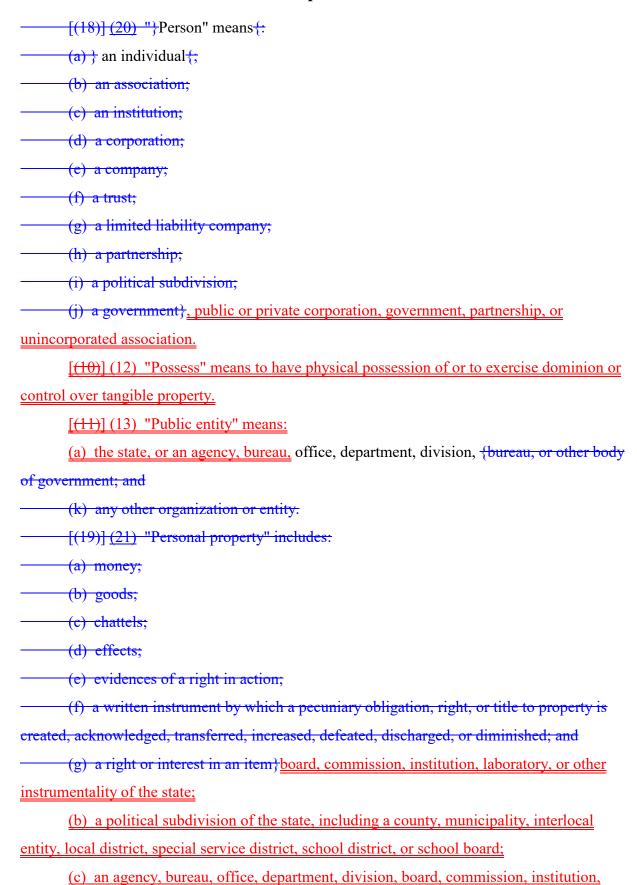
(3) "Administrator" includes "executor" when the subject matter justifies the use. (4) "Advisory board," "advisory commission," and "advisory council" mean a board, commission, committee, or council that: (a) is created by, and whose duties are provided by, statute or executive order; (b) performs its duties only under the supervision of another person as provided by statute; and (c) provides advice and makes recommendations to another person that makes policy for the benefit of the general public. <del>(5)</del>. Unless otherwise provided, as used in this title: (1) "Act" means a voluntary bodily movement and includes speech. (2) "Actor" means a person whose criminal responsibility is in issue in a criminal action. (3) "Affinity" means a relationship by marriage. [({5}3)] ({6) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard. [(6)] (7) "City" includes, depending on population, a metro township as defined in Section 10-3c-102. (8)4) "Bodily injury" means physical pain, illness, or any impairment of physical condition. [4] (5) "Conduct" means an act or omission. (6) "Consanguinity" means a relationship by blood to the first or second degree, including an individual's parent, grandparent, sibling, child, aunt, uncle, niece, or nephew.  $\left[\frac{(7)}{5}\right]$  (9) "County executive 7) "Dangerous weapon" means: (a) any item capable of causing death or serious bodily injury; or (b) a facsimile or representation of the item, if: (i) the actor's use or apparent intended use of the item leads the victim to reasonably believe the item is likely to cause death or serious bodily injury; or (ii) the actor represents to the victim verbally or in any other manner that he is in

control of such an item.

#### [(6)] (8) "Grievous sexual offense" means:

- (a) {the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;
- (b) the county executive, in the county executive-council optional form of government authorized by Section 17-52a-203; or
- (c) the county manager, in the council-manager optional form of government authorized by Section 17-52a-204} rape, Section 76-5-402;
  - (b) rape of a child, Section 76-5-402.1;
  - (c) object rape, Section 76-5-402.2;
  - (d) object rape of a child, Section 76-5-402.3;
  - (e) forcible sodomy, Subsection 76-5-403(2);
  - (f) sodomy on a child, Section 76-5-403.1;
  - (g) aggravated sexual abuse of a child, Subsection 76-5-404.1(4);
  - (h) aggravated sexual assault, Section 76-5-405;
- (i) any felony attempt to commit an offense described in Subsections [(6)] (8)(a) through (h); or
- (j) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections [(6)] (8)(a) through (i).
  - [<del>(7)</del>] (9) "Offense" means a violation of any penal statute of this state.
  - [<del>(8)</del>] <u>(10)</u> "<del>{County legislative body" means:</del>
- (a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;
- (b) the county council, in the county executive-council optional form of government authorized by Section 17-52a-203; and
- (c) the county council, in the council-manager optional form of government authorized by Section 17-52a-204} Omission" means a failure to act when there is a legal duty to act and the actor is capable of acting.
  - [(9)] (11) "{Depose" means to make a written statement made under oath or

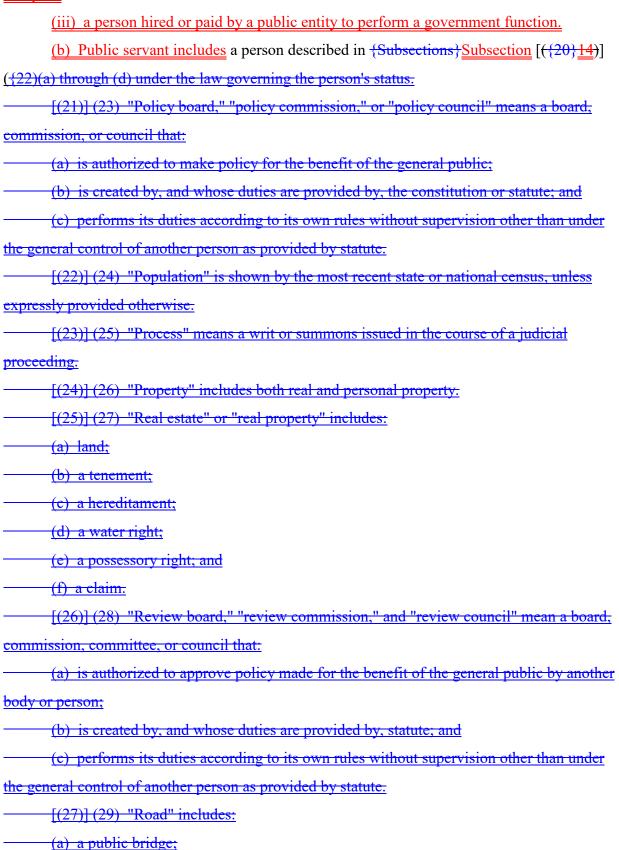


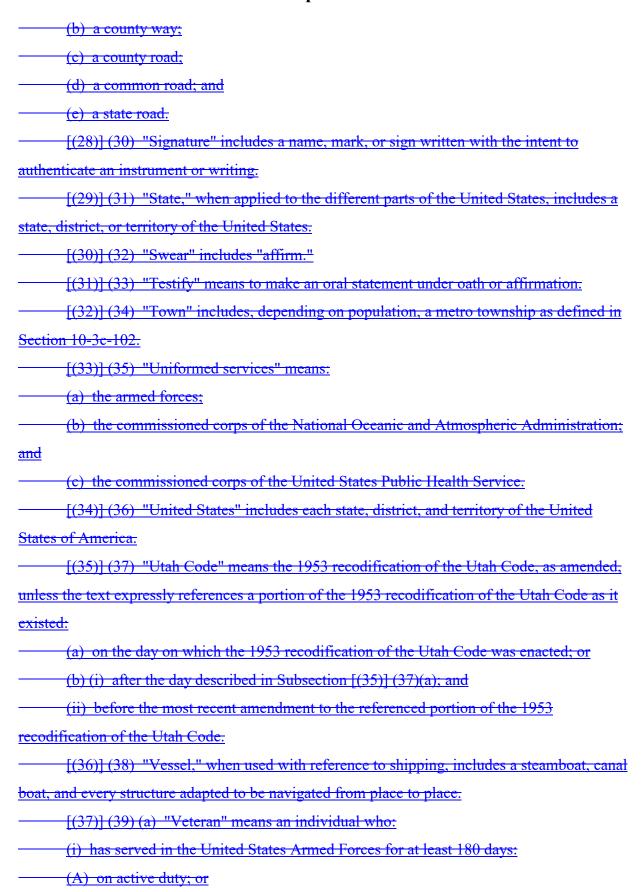


#### laboratory, or other instrumentality of a political subdivision of the state; or

- (d) another entity that:
- (i) performs a public function; and
- (ii) is authorized to hold, spend, transfer, disburse, use, or receive public money.
- [(12)] (14) (a) "Public money" or "public funds" means money, funds, or accounts, regardless of the source from which they are derived, that:
- (i) are owned, held, or administered by an entity described in Subsections  $[\frac{(19)}{11}]$  ( $\frac{(21)}{13}$ )(a) through ( $\frac{(1)}{11}$ )
  - [(20)] (22) "Personal representative," "executor," and "administrator" include:
- (a) an executor;
- (b) an administrator;
- (c) a successor personal representative;
- (d) a special administrator; and
- (e) a person who performs substantially the same function as c); or
- (ii) are in the possession of an entity described in Subsection [(11)] (13)(d)(i) for the purpose of performing a public function.
- (b) "Public money" or "public funds" includes money, funds, or accounts described in Subsection [(12)] (14)(a) after the money, funds, or accounts are transferred by a public entity to an independent contractor of the public entity.
- (c) "Public money" or "public funds" remains public money or public funds while in the possession of an independent contractor of a public entity for the purpose of providing a program or service for, or on behalf of, the public entity.
  - [(13)] (15) "Public officer" means:
  - (a) an elected official of a public entity;
- (b) an individual appointed to, or serving an unexpired term of, an elected official of a public entity;
  - (c) a judge of a court of record or not of record, including justice court judges; or
  - (d) a member of the Board of Pardons and Parole.
  - [(14)] (16) (a) "Public servant" means:
  - (i) a public officer;
  - (ii) an appointed official, employee, consultant, or independent contractor of a public

### entity; or





- (B) in a reserve component, to include the National Guard; or
- (ii) has incurred an actual service-related injury or disability while in the United States

  Armed Forces regardless of whether the individual completed 180 days; and
  - (iii) was separated or retired under conditions characterized as honorable or general.
  - (b) This definition is not intended to confer eligibility for benefits.
- [(38)] (40) "Will" includes a codicil.
- [(39)] (41) "Writ} 16)(a) upon the person's election, appointment, contracting, or other selection, regardless of whether the person has begun to officially occupy the position of a public servant.
- [(15)] (17) "Serious bodily injury" means bodily injury that creates or causes serious permanent disfigurement, protracted loss or impairment of the function of any bodily member or organ, or creates a substantial risk of death.
- [(16)] (18) "Substantial bodily injury" means bodily injury, not amounting to serious bodily injury, that creates or causes protracted physical pain, temporary disfigurement, or temporary loss or impairment of the function of any bodily member or organ.
- [(17)] (19) "Writing" or "written" includes any handwriting, typewriting, printing, electronic storage or transmission, or any other method of recording information or fixing information in a form capable of being preserved.
  - Section 2. Section **78B-7-102** is amended to read:

#### 78B-7-102. Definitions.

As used in this chapter:

- (1) "Abuse" means intentionally or knowingly causing or attempting to cause a cohabitant physical harm or intentionally or knowingly placing a cohabitant in reasonable fear of imminent physical harm.
  - (2) "Affinity" means the same as that term is defined in Section 76-1-601.
- [(2)] (3) (a) "Cohabitant" means an emancipated person pursuant to Section 15-2-1 or a person who is 16 years of age or older who:
  - [(a)] (i) is or was a spouse of the other party;
  - [(b)] (ii) is or was living as if a spouse of the other party;
- [(e)] (iii) is related by blood or marriage to the other party as the person's parent, grandparent, sibling, or any other person related to the person by consanguinity or affinity to

#### the second degree;

- [(d)] (iv) has or had one or more children in common with the other party;
- [(e)] (v) is the biological parent of the other party's unborn child;
- [(f)] (vi) resides or has resided in the same residence as the other party; or
- [<del>(g)</del>] (vii) is or was in a consensual sexual relationship with the other party.
- [(3) Notwithstanding Subsection (2), "cohabitant"]
- (b) "Cohabitant" does not include:
- [(a)] (i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
- [(b)] (ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years of age.
  - (4) "Consanguinity" means the same as that term is defined in Section 76-1-601.
  - [(4)] (5) "Court clerk" means a district court clerk.
- [(5)] (6) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- [(6)] (7) "Ex parte protective order" means an order or precept in writing, issued the name of:
- (a) the state;
- (b) a court; or
- (c) a judicial officer.
- [(40)] (42) "Writing" includes:
- (a) printing;
- (b) handwriting; and
- (c) information stored in an electronic or other medium if the information is retrievable in a perceivable format.
- without notice to the respondent in accordance with this chapter.
- [<del>(7)</del>] (8) "Foreign protection order" means the same as that term is defined in Section 78B-7-302.
- [(8)] (9) "Law enforcement unit" or "law enforcement agency" means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.
  - [(9)] (10) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace

### Officer Classifications.

[(10)] (11) "Protective order" means:

(a) an order issued pursuant to this chapter subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice in accordance with this chapter; or (b) an order issued under Subsection 77-36-5.1(6).